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EX PARTE OR LATE FILED

November 15, 2012

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**Federal Communications Commission
Office of the Secretary**

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VIA HAND DELIVERY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

**Re: WCC DOCKET NOS. 10-90, 07-135, 05-337, 03-109, GN DOCKET NO. 09-51, CC
DOCKET NOS. 01-92, 96-45, WT DOCKET NO. 10-208
Adak Eagle Enterprises, LLC Notice of Ex Parte**

Dear Ms. Dortch:

On behalf of Adak Eagle Enterprises, LLC (“AEE”) and in accordance with the Third Protective Order adopted in the above referenced proceedings, please find enclosed an original and one copy of AEE’s Public version of its Notice of Ex Parte filed in the aforementioned dockets. The [[]] symbols denote Confidential Information. A Confidential version is also being filed separately with the Secretary’s Office. Additionally, a Confidential version is also being filed with the Wireline Competition Bureau.

Should you have any questions concerning the foregoing request, please contact the undersigned.

Sincerely



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Counsel for Adak Eagle Enterprises, LLC

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Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Ex Parte Notice and Submission of Supplemental Information**
WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-
45, GN Docket No. 09-51, WT Docket No. 10-208.
Petitions for Waiver – Adak Eagle Enterprises and Windy City Cellular

Dear Ms. Dortch:

This letter is being filed in response to questions asked by Commission staff in the Wireline Competition Bureau (“WCB”) and the Wireless Telecommunications Bureau (“WTB”) seeking additional information related to the Petitions for Waiver filed by Adak Eagle Enterprises, LLC (“AEE”) and Windy City Cellular, LLC (“WCC”).¹ This information was requested during a conference call on November 14, 2012, between Andilea Weaver, Chief Operations Officer for WCC and AEE, Monica Desai and Jennifer Richter of Patton Boggs, LLP, their counsel, and the following Commission staff from the WCB and the WTB: Rebekah Goodheart (Associate Chief, WCB); Joseph Cavender (Assistant Chief, Telecommunications Access Policy Division, WCB); Joseph Sorresso (Telecommunications Analyst, Telecommunications Access Policy Division, WCB); Gary Seigel (Public Utilities Specialist, Telecommunications Access Policy Division, WCB); Christopher Cook (Attorney-Advisor, Telecommunications Access Policy Division, WCB); and Margaret Wiener (Chief, Auctions and Spectrum Access Division, WTB).

Larry Mayes, AEE’s President and CEO, was unable to join the call due to a severe storm on Adak Island with heavy snow and winds reaching over 100 miles per hour. While local wireline service was available through AEE, the storm prevented all long distance calls to and from the island, prevented cellular service, and blocked Internet service from Saturday night through Wednesday night when the severe weather subsided and satellite dishes could be cleared and repositioned. AEE had been forced to eliminate its backhaul redundancy due to the FCC’s flash-

¹ See Petition for Waiver of Adak Eagle Enterprises, LLC, WC Docket No. 10-90, *et al.*, filed May 22, 2012; Petition for Waiver of Windy City Cellular, LLC, WC Docket No. 10-90, *et al.*, filed April 3, 2012.

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cut in USF funding, but hopes that when the FCC makes a final decision regarding funding it will be able to restore redundant backhaul and can better avoid or reduce service outages when severe weather hits.

FCC staff requested that AEE and WCC provide the following information:

- (1) AEE ending cash balances on a consolidated basis for July, August, September and October;
- (2) Annualized financial impact of AEE's elimination of six full-time positions (roughly half their workforce) due to the reduction in funding caused by the FCC's ICC/USF Transformation Order;
- (3) Reductions in service or other expenses, and whether AEE/WCC anticipate such cutbacks to be permanent or temporary; and
- (4) Summary of discussions with RUS and status of loan.

The information is provided as follows. We are also working to gather additional information, which we hope to send to you no later than Monday.

- (1) AEE ending cash balances on a consolidated basis for July, August, September and October.

This information is attached as Exhibit 1. It reflects the ending cash balances for AEE on a consolidated basis, as well as the stand-alone ending cash balances for AEE, WCC, and Windy City Broadband. Because USF payments are received at the end of each month, the ending cash balances reflect significantly higher amounts than the cash balances available to AEE throughout the rest of the month as the USF payments are expended for operations. To avoid further detrimental impact, and to avoid a default on AEE's RUS loan, AEE emphasizes its need for continued interim relief while FCC staff completes its evaluation of this newly requested information. AEE's 2012 financial statements reflect that WCC, AEE's wireless affiliate, is already operating at a loss, even with the interim relief provided to WCC by the Commission.² When WCC's costs and revenues are separated out, the financial statements illustrate that, without interim relief, AEE began operating at a loss on August 1.

As noted in Exhibit 1, in September 2012, AEE received a NECA settlement true-up as a result of the reclassification of common carrier assets pursuant to new NECA cost pooling guidelines. This true-up settlement resulted in a one-time increased NECA settlement amount in September, temporarily enabling AEE to stop operating at a loss. Without a waiver, however, AEE will return to operating at a loss by December 2012. We note that a portion of the additional money received in September due to the true-up was used to cover the cost previously incurred in 2010 to purchase and ship a warehouse structure needed to house maintenance operations and store

² See *In the Matter of Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Order, DA 12-923 (rel. June 12, 2012).

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fiber in a heated facility on Adak Island. AEE was unable to complete this project as a result of the funding cuts. The remaining true-up money was used to pay outstanding bills for software fees, legal fees, and other operating expenses.

- (2) Annualized financial impact of eliminating six full-time positions.

This information is attached as Exhibit 2. As explained, AEE laid off the following six employees as a direct result of the funding cuts:

Combination Technician

Responsibilities include, but are not limited to, assisting with supervising daily activities of personnel and development of plant records system for reference, analysis, and testing of outside plan and central office equipment. This employee also makes frequent site inspections, evaluates plant conditions, and works with the customer service department to ensure the earliest possible service connection to the subscriber.

Customer Service Representative

Responsibilities include, but are not limited to, accurately maintaining all customer accounts for AEE and ensuring that all customer needs are met. This employee processes the monthly billing of customer accounts and receives, records, attempts resolution, and dispatches service orders.

Front Desk Receptionist / Administrative Assistant

Responsibilities include, but are not limited to, front desk duties and organizing day-to-day functions of the office in order to ensure organizational effectiveness and efficiency. This employee reports to the Chief Operations Officer and performs secretarial and administrative duties.

Accounting Clerk

Responsibilities include, but are not limited to, accurately maintaining AEE's accounts and accounting records as assigned by the Accounting Manager. This employee performs purchasing duties and also prepares entries to general ledger accounts to include proper documentation of business transactions, codes and enters information into AEE's accounting software, maintains vendor folders for all invoices and check copies, and processes quarterly reports.

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Facilities Maintenance Technician

Responsibilities include, but are not limited to, maintaining AEE's buildings and grounds, including welding, machining, machine and equipment repairs, carpentry, electrical work, plumbing and painting.

Human Resources Director

This position performs a wide array of functions related to all major areas of human resources (recruitment, orientation, benefits, education, safety management and employee relations) supporting the COO and CEO. Responsibilities include, but are not limited to, executing benefits and insurance administrative duties, assisting with new employee orientation processes, maintaining employee personnel, medical, confidential and terminated files in regards to employee status changes, and ensuring compliance with state and federal regulations.

Additionally, AEE initially laid off one position, the Lead Combination Technician, for unrelated reasons. However, AEE is now unable to rehire this position, which is vital for its operations, as a direct result of the funding cuts. Another employee (a retail clerk) also was reduced to part-time status, and her health benefits were eliminated.

It is AEE's hope that if and when funding is restored to comparable levels, it can hire back three of the laid-off employees who filled the following positions: Front Desk Receptionist / Administrative Assistant, Lead Combination Technician, and Maintenance Technician. AEE also hopes to return the currently part-time retail clerk position to a full-time position because the retail store operated by WCC is a community hub and provides the only location where residents on the island can use free Internet service.

(3) Annualized impact of other reductions in services or other expenses.

As explained in prior filings, in addition to the employee lay-offs discussed above, the current cuts in the support to WCC (even with the interim partial relief granted to WCC while the Commission is evaluating a solution for AEE and WCC as a whole) has already had these additional detrimental impacts as a result of cuts in service and expenses resulting from USF funding cuts: (1) there is no longer any backhaul redundancy, which leaves all WCC customers without service when outages occur due to the frequent, extremely challenging weather conditions in Adak; (2) WCC does not have the funds needed to upgrade its facilities to 3G (LTE) service; (3) WCC does not have the funds for software needed to track and bill the roaming minutes on its network; and (4) WCC abandoned its plans to construct a Clam Lagoon

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site, intended to enable greater network redundancy, despite having undergone six months of planning.³

AEE and WCC are preparing a comprehensive list of the expenses that have been cut and will annualize that information as requested. This information is taking some time to process, but we plan to submit this to you by Monday.

(4) RUS status and impact.

AEE has dropped below the tier classification requirements of its RUS loan covenants – potentially triggering default on its RUS loan. However, AEE is current in its monthly loan payments.

AEE and WCC continue to stand ready to provide any additional information that Commission staff may request. AEE and WCC respectfully request interim relief in the form of a stay of the implementation of Section 54.302 and a continuation of the interim relief from Section 54.307(e) granted to WCC while the Bureaus continue their review process.

Respectfully submitted,



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*Counsel to Adak Eagle Enterprises, LLC
and Windy City Cellular, LLC*

cc:

Rebekah Goodheart
Joseph Cavender
Joseph Sorresso
Gary Seigel
Christopher Cook
Margaret Wiener
Amy Bender
Carol Matthey

³ See Letter from Monica S. Desai, Counsel, Windy City Cellular, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Notice of Ex Parte, WC Docket 10-90 *et al.*, dated June 11, 2012; Letter from Monica S. Desai, Counsel, Windy City Cellular, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, Submission of Supplemental Information, WC Docket 10-90 *et al.*, dated July 13, 2012.

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Katie King
Susan Miller
Soumitra Das
Gary Michaels
Mark Rossetti
Ruth Milkman
Julie Veach

Exhibit 1

REDACTED – FOR PUBLIC INSPECTION

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Exhibit 2

REDACTED – FOR PUBLIC INSPECTION

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Exhibit 3

DECLARATION OF ANDILEA WEAVER
ADAK EAGLE ENTERPRISES, LLC AND WINDY CITY CELLULAR, LLC

I, Andilea Weaver, declare the following is true and correct to the best of my knowledge and belief:

I am the Chief Operations Officer of Adak Eagle Enterprises, LLC and Windy City Cellular, LLC. I have reviewed the Ex Parte Notice and Submission of Supplemental Information and attached Exhibits and attest, under penalty of perjury, that the facts contained therein are known to me and are accurate.

Executed on this 15th day of November 2012.

A handwritten signature in black ink, appearing to read "Andilea Weaver", is written over a horizontal line.

Andilea Weaver
Chief Operations Officer
Adak Eagle Enterprises, LLC and
Windy City Cellular, LLC